

Commissioners,

This is a comment on MB Docket No. 02-230, FCC 02-231, Notice of Proposed Rulemaking regarding "Digital Broadcast Copy Protection".

My name is Stephen Hurst. I am a computer professional residing in Austin, Texas, and a citizen concerned about the rights and interests of the public in this matter. By "the public" I mean TV viewers and users of "consumer electronics", considered as individuals and distinguished from broadcasters and from corporations that own entertainment copyrights.

My main concern is that the proposed requirement "that consumer electronics devices recognize and give effect to the ATSC flag or another type of content control mark" would unjustly interfere with legitimate activities of members of the public, and would grant copyright owners an excessive degree of control over broadcast content at the expense of the public.

Content owners have legitimate concerns about copyright violations. However, it is only in regard to a limited class of activities that those concerns are justified. The practice of redistributing a film or other programming in competition with commercial versions is rightly criminalized. And it is acceptable for government and content owners to seek to prevent such activity to the extent they can do so *without* restricting legally permitted, non-harmful activities.

Unfortunately, corporate copyright owners have an excessively broad idea of what activities they are entitled to deny to users of their products. Recording television programs for viewing within the small group of family and friends, later or at another location, is not a copyright violation, and the copyright owners are not entitled in law or justice to prevent this innocuous activity. If members of the public engage in such innocent copying in the absence of technical restrictions, and will continue to do so in a digital context, to the extent they can, this is precisely an expression of the public interest. In fact it is the purest and most unmistakable expression of the public interest, and therefore the Commission should not act against it.

If it is not technically possible to restrict illegal redistribution without also restricting non-criminal recording and format conversion, then it is the restrictions that ought to be sacrificed rather than the rights of the public. The copyright-holding corporations have perfectly adequate laws with which to go after copyright violaters - the shutdown of Napster, and regularly occurring prosecutions of other violaters demonstrate this. The public, on the other hand, has no defense against corporate overreaching, except to write letters as I am doing now.

Thank you for your attention to comments submitted by citizens.

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